

1 Bill No. R-80-02- 27

2 Resolution No. R- 16-80

3 A Resolution authorizing the Mayor and City
4 Clerk to enter into an agreement with the
5 Department of Natural Resources of the State
6 of Indiana for the allocation by the State
7 of the sum of \$400,000.00 to the city to be
8 used by it in its flood control/public access-
9 park system program along the river banks in
10 the Spy Run Creek and West Main Street areas.

11 WHEREAS, by P.L. 307, Acts of 1979 of the Indiana General
12 Assembly appropriated money to the Department of Natural Resources
13 to be used for flood control and water resource planning in the
14 City of Fort Wayne; and

15 WHEREAS, the city desires to use some of this money for its
16 flood control/public access-park system program along the river-
17 banks in the Spy Run Creek and West Main Street Areas; and

18 WHEREAS, the State Budget Committee has allotted the sum of
19 \$400,000.00 for such use; and

20 WHEREAS, the Department of Natural Resources proposes to
21 enter into a contract with the city regarding the transmittal of
22 such money by the state to the city, the use to which the city
23 shall put such money, and the details of the relationship between
24 the city and the state with regard thereto; and


25 WHEREAS, a copy of such proposed contract is on file in the
26 office of the Mayor and is by reference incorporated herein and
27 made a part hereof;

28 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE
29 CITY OF FORT WAYNE, INDIANA:

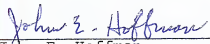
30 Section 1. That the Mayor and the City Clerk of the City of
31 Fort Wayne, Indiana, are hereby authorized and empowered to sign
32 and execute said contract with the Department of Natural Resources

1 of the State of Indiana, for and on behalf of the City of Fort
2 Wayne, Indiana.

3 Section 2. That this Resolution shall be effective upon pas-
4 sage and approval by the Mayor.

5
6 Councilman 

7 Approved as to form and
8 legality February 22, 1980.

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11 John E. Hoffman
12 City Attorney
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Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: _____

Charles W. Westerman
CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by Stier, seconded by Eisbart, and duly adopted, placed on its passage. PASSED (lost) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>	_____	_____	_____
<u>BURNS</u>	<u>X</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>X</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>X</u>	_____	_____	_____	_____
<u>NUCKOLS</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>X</u>	_____	_____	_____	_____
<u>STIER</u>	<u>X</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>X</u>	_____	_____	_____	_____

DATE: 2-26-80

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (~~GENERAL~~) (~~ANNEXATION~~) (~~SPECIAL~~) (~~APPROPRIATION~~) ORDINANCE (RESOLUTION) No. 9-16-80 on the 26th day of February, 19 80.

ATTEST:

(SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

William A. Schmidt
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of February, 19 80, at the hour of 9:00 o'clock A. M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 27th day of Feb. 19 80, at the hour of 9 o'clock A. M., E.S.T.

Winfield C. Moses, Jr.
WINFIELD C. MOSES, JR.
MAYOR

AGREEMENT
BETWEEN
THE CITY OF FORT WAYNE, INDIANA
AND THE
DEPARTMENT OF NATURAL RESOURCES
STATE OF INDIANA

PROJECT NO. E6-904

ACCOUNT NO. 159-649

WHEREAS, Public Law 307, Acts of 1979 appropriated certain monies to the Department of Natural Resources for the purpose of flood control and water resources planning for Fort Wayne/Allen County; and

WHEREAS, the City of Fort Wayne desires to utilize these monies for the purpose of providing a degree of flood protection for two present areas of the City, coupled with the construction of a public access and park system along the riverbanks; and

WHEREAS, the State Budget Committee has allotted the sum of \$400,000 for expenditure; and

WHEREAS, the purpose of this agreement is to set forth the provisions for the transfer of said funds from the Department to the City, the definition of the nature and scope of the work to be done, and the general terms and conditions governing the project;

NOW THEREFORE, it is mutually agreed that:

(1) The work to be done consists generally of the following:

- (a) In the Spy Run area of the City, repair existing dikes, repair areas of known percolation, repair or provide tide gates on all pipe outlets to the river, install new dikes or floodwalls along the east side of Spy Run (Creek), and construct a bicycle and pedestrian path on or along portions of these dikes.
- (b) In the Main Street area of the City, repair existing dikes, repair areas of known percolation, repair or provide tide gates on all pipe outlets to the river, and repair or up-grade the floodwall to close on the Penn Central spur tracks and across Mechanic Street and Greenwood Avenue.
- (c) In both areas, to provide suitable vegetative cover on the repaired or constructed dikes.

- (2) The City or its agents shall be responsible for the preparation of necessary plans, specifications, cost estimates or other documents. The reasonable cost of such preparation will be considered as allowable project costs, payable from the funds herein provided.
- (3) The City shall be responsible for administrative costs and shall advertise for, award, administer and supervise contracts for the construction of the work in accordance with established practice and procedure for public works.
- (4) The City shall be responsible for the obtaining of all necessary rights of way for the construction and maintenance of the project.
- (5) The City shall be responsible for obtaining all permits or approvals required by law, including specifically a permit for construction in a floodway from the Department prior to construction pursuant to IC 13-2-22.
- (6) Representatives of the Department shall have the right of ingress and egress at all reasonable times for inspection of the work during construction and for subsequent maintenance.
- (7) The City hereby agrees to hold and save the State of Indiana harmless from any injuries or damages which may occur during or as a result of construction, operation, maintenance or use of the project.
- (8) It is specifically understood and the City hereby acknowledges that the flood control works to be accomplished hereunder provide only partial protection from flooding to the affected areas and do not result in any change to existing flood plain and/or floodway designations in such areas.
- (9) The City hereby agrees to maintain the dikes and other works constructed hereunder according to accepted engineering practice in such manner as to preserve their function for flood control purposes.
- (10) The Department shall transmit the sum of \$400,000 to the City as soon as reasonably possible following the execution of this agreement.
- (11) This agreement may be altered only by separate written instrument to be an addendum agreement between the parties, executed by the parties hereto, and may be terminated only in like manner.

This agreement shall not be in effect unless and until approved by the Attorney General and the Governor of Indiana. The Department shall inform the City when this agreement has been approved by the Governor.

Entry into this agreement was authorized by Resolution No. 3-16-80 of the City Council of Fort Wayne, adopted this 26th day of February, 1980.

William G. Schmidt
President, City Council

Attest:

Charles W. Hesterman
Clerk

For the City of
Fort Wayne, Indiana

By:

William G. Schmidt
Mayor

Date

2-20-80

Attest:

Charles W. Hesterman
City Clerk

Approved as to form and
legality this _____ day of
_____, 1980.

Attorney General
State of Indiana

For the State of Indiana

By:

Director

Department of Natural Resources

Date

Approved this _____ day of
_____, 1980.

Otis R. Bowen, M.D.
Governor
State of Indiana

This instrument prepared by William J. Andrews, Deputy Director, Department of Natural Resources.

STATE OF INDIANA

DEPARTMENT OF NATURAL RESOURCES

JOSEPH D. CLOUD
DIRECTOR



INDIANAPOLIS, 46204

February 13, 1980

The Honorable Winfield Moses, Jr.
Mayor, City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, Indiana 46802

Dear Mayor Moses:

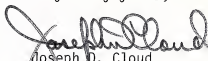
Please refer to your letter of January 16, 1980 in the matter of the revised flood control program for Fort Wayne.

In furtherance of that program, I am enclosing herewith four (4) copies of an Agreement between the State and the City of Fort Wayne covering the transfer of the state funds to the City for this project. A draft copy of this Agreement was forwarded to the City on February 6 and we have been advised that it is acceptable as presented.

It is suggested that three (3) copies be executed on behalf of the City and returned to this office for further handling, with the fourth copy being retained for your files.

A fully executed copy will be forwarded to you immediately upon approval by the Governor. We will at that time also furnish you with a claim-voucher for the funds, which upon execution and return will be processed for payment of the full amount.

Very truly yours,


Joseph D. Cloud
Director

JDC/WJA/rjd

Enclosures